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7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9 MICHAEL MORTON,

10 Plaintiff,

11 vs.

12 ROCKY MOUNTAIN HOSPITAL AND  
 13 MEDICAL SERVICES, INC. d/b/a ANTHEM  
 14 BLUE CROSS AND BLUE SHIELD

15 Defendants.

Case No.: 2:23-cv-01320-GMN-DJA

**STIPULATION AND ORDER TO  
 MODIFY SCHEDULING ORDER TO  
 INCLUDE EXTENDING TIME FOR  
 DETERMINATION OF THE SCOPE OF  
 DISCOVERY AND MERITS BRIEFING**

[First Request]

16 Plaintiff and Defendant, by and through their counsel, state the following:

17 1. This is an ERISA case for which unique scheduling issues exist.

18 2. This Court entered the Parties' Discovery Plan and Scheduling Order, as amended

19 by the Court (the "DPSO"), on August 19, 2024. ECF No. 31.

20 3. The DPSO required, among other things, that the parties either stipulate or file  
 21 motions to determine the standard of review.

22 4. Counsel for the Parties met and conferred did not stipulate as to the applicable  
 23 standard of review in this matter. The parties' briefing concerning the applicable standard of  
 24 review has been submitted to the Court. ECF Nos. 41-49, 51-55. No decision has been made  
 25 concerning the applicable standard of review.

1       5.       The DPSO provided that “[t]he scope of discovery and any discovery limitations  
2 will be decided after the standard of review is determined by stipulation or order of the Court”  
3 and that “[t]he parties shall submit a stipulation or motion to decide the scope of discovery and  
4 any discovery limitations within 21 days after the standard of review is decided.” ECF No. 31 at  
5 page 2 of 4.

6       6.       The DPSO further provided a briefing schedule concerning “Merits Briefing”  
7 with Plaintiff’s opening brief being due on February 7, 2025. ECF No. 31 at page 3 of 4.

8       7.       Given that the Court’s ruling on the standard of review and scope of discovery  
9 may impact Merits Briefing, the parties stipulate and request that the Court modify the DPSO  
10 that is currently in effect as follows:

11           a. The DPSO provision stating that any stipulation or motion to decide the  
12           scope of discovery and any discovery limitations be filed within 21 days after  
13           the standard or review is decided shall remain in effect.  
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15           b. The Merits briefing deadlines shall be extended, with Plaintiff’s opening  
16           brief being due thirty (30) days after the close of any discovery permitted by  
17           the Court.

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8. This Stipulation is being filed in good faith and not for the purposes of delay, nor is it prejudicial to either Party.

**IT IS SO AGREED AND STIPULATED:**

## WHITMIRE LAW, PLLC

## PETERSON BAKER, PLLC

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## IT IS SO ORDERED:

DATED: 1/21/2025

DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE